

**LASSEN SUPERIOR COURT
DEPARTMENT ONE
TENTATIVE RULINGS**

October 25, 2010

Hon. F. Donald Sokol, Presiding

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(NOTE TO COUNSEL AND PARTIES: The court provides tentative rulings on law and motion matters only for information to the parties in preparation for the hearing. The court does NOT issue tentative rulings pursuant to California Rule of Court 3.1308, and the procedure set out in that Rule does not apply.)

[Record Disclosures by Judge Sokol: Ms. Donna Talley is a court Guardianship/Conservatorship Investigator. Ms. Nina Dupont-Stone, M.A. is a court Mediator. Ms. Diane Tetreault, M.A. is a court Mediator. Mr. Jon Nakanishi is the court Family Law Facilitator.]

8:00 CALENDAR

#FL49610

**Langford, Matthew v. Langford, Kathryn
Motion for Bifurcation**

With respect to the Motion of Petitioner for Status Dissolution, Family Code section 2337 governs bifurcation and it requires a Preliminary Declaration of Disclosure with a completed Schedule of Assets and Debts to be served on the non-moving party unless previously waived. Since there is no declaration regarding service of Petitioner's preliminary disclosures the motion for bifurcation must be denied. Also the motion fails to comply with California Rule of Court Rule 1.31 requiring the use of mandatory Judicial Council Form FL-315 for requesting bifurcation. Further, Rule 3.1112 requires a Memorandum of Authorities in support of the motion.

The request of Respondent in her response to order Petitioner to serve his financial disclosure within five days is denied by reason of the fact that Family Code section 2107 requires a reasonable time to pass after a

party serves his preliminary or final disclosure before requesting the same of the other party. If the other party fails to comply the complying party may then file a motion to compel.

With respect to the "Declaration in Support of Respondent's Request for Attorney Fees Under Family Code section 2030 and 271" there is no corresponding motion nor Order to Show Cause requesting attorney fees. Family Code section 271 requires a noticed motion on the party against whom said award is sought, since section 271 is in the nature of a sanction. No such motion has been filed.

With respect to the request for attorney fees under Family Code section 2031(b) the court will hear argument from both parties. In any event the award will be limited to \$2,500.00 since this is the amount requested by Respondent in paragraph 5 of her responsive declaration.

With respect to setting this matter for trial in accordance with the request of Respondent, Respondent has not filed all documents required by Local Rule One Subparagraph 7, namely, current community and separate property declarations and Statement of Issues, Contentions and Proposed Disposition of the Case. No trial date will be set until Local Rule One Subparagraph 7 is complied with.

#FL47943

Marland, Daniel v. Marland, Samantha

Order to Show Cause re Sanctions Against Dan Marland for Providing False Document to Court

The court will hear evidence from Mr. Marland, review the false documents which he provided to the court, review the original document subpoenaed by Respondent from Ms. Angel and decide what, if any, sanctions it deems necessary and appropriate.

#40185

Puckett, Shannon v. Briones, Cassandra

Order to Show Cause re Failure to Prosecute

This case will be dismissed pursuant to California Rule of Court 3.1340 for failure to settle or bring the action to trial within two years from its commencement.

#44545

Domingos, John v. Martinez, Brandie

Order to Show Cause re Failure to Prosecute

This case will be dismissed pursuant to California Rule of Court 3.1340 for failure to settle or bring the action to trial within two years from its commencement.

#45648

Kirby, Jeremy v. Kirby, Stacey

Order to Show Cause re Modification of Custody, Visitation and Injunctive Order

At the time of review no proof of service of the Order to Show Cause had been filed. If no proper proof of service is filed by the date of the hearing the matter will be taken off calendar unless Respondent appears and waives the service defect in which case the parties will be referred to Child Custody Recommending Counseling, to return to court at 4:00 p.m. If no agreement is reached the court will accept the recommendation of the counselor or set the matter for an evidentiary hearing.

#FL51039

Willis, Alfred v. Ramirez, Diana

Order to Show Cause re Custody, Visitation and Temporary Orders

The parties will be referred to Child Custody Recommending Counseling to determine whether an agreement can be reached, to return to court at 4:00 p.m. If no agreement is reached the court will either accept the recommendation of the counselor or set the matter for an evidentiary hearing.

#FL51104

Smith, Karah v. Holt, Donald

Order to Show Cause re Custody, Visitation, Attorney Fees and Temporary Orders

At the time of review no proof of service of the Order to Show Cause had been filed with the court. If no proper proof of service is filed by the hearing date the matter will be taken off calendar unless Respondent appears and waives the service defect in which case the parties will be referred to Child Custody Recommending Counseling, to return to court at 4:00 p.m. If no agreement is reached the court will either accept the recommendation of the counselor or set the matter for an evidentiary hearing.

#FL51189

Bryand, Joshua v. Toledo, Tia

Order to Show Cause re Custody and Visitation

At the time of review no proof of service of the Order to Show Cause had been filed with the court. If no proper proof of service is filed by the hearing date the matter will be taken off calendar unless Respondent appears and waives the service defect in which case the parties will be referred to Child Custody Recommending Counseling, to return to court at 4:00 p.m. If no agreement is reached the court will either accept the recommendation of the counselor or set the matter for an evidentiary hearing.

#FS42753

Goff, Lemonica v. Goff, Michael

Order to Show Cause re Failure to Prosecute

This case will not be dismissed for failure to prosecute since there are existing custody and support orders in place.

#FS47153

Harrod, Megan v. Briones, Brandon

Order to Show Cause re Modification of Custody and Visitation

The parties will be referred to Child Custody Recommending Counseling to determine whether an agreement can be reached, to return to court at 4:00 p.m. If no agreement is reached the court will either accept the recommendation of the counselor or set the matter for an evidentiary hearing.

#FS47682

Mooney, Brandon v. Briones, Cassandra

Order to Show Cause re Failure to Prosecute

An Order to Show Cause was filed September 3, 2010 for dismissal but will not be granted for the reason that two years have not passed since the action was commenced on October 29, 2008.

#FS50209

**Craddock, Angela v. Craddock, Robert
Order to Show Cause re Spousal Support**

The parties will be referred to the Family Law Facilitator for calculation of guideline support.

#39363

**Wade, Amber v. Kurtz, Kevin
Motion for Move Away Order**

California Code of Civil Procedure section 1005b requires a party bringing a motion to file and serve the motion and supporting documents on the opposing party at least 16 court days before the hearing and an additional 5 calendar days if service is by mail. The motion of Respondent was served by mail on Petitioner on October 5, 2010, 13 court days before the hearing, so the matter will be taken off calendar unless Petitioner appears and waives the service defect in which case the parties will be referred to the Child Custody Recommending Counselor to determine an agreement can be reached, to return to court on October 27, 2010 at 1:30 p.m. which is the date for a scheduled evidentiary hearing on custody and visitation issues.

#FS45901

**Mancilla, Sharene v. Mancilla, Johnny
Motion for Modification of Custody, Visitation and Injunctive Order**

The parties will be referred to Child Custody Recommending Counseling to determine whether an agreement can be reached, to return to court at 4:00 p.m. If no agreement is reached the court will either accept the recommendation of the counselor or set the matter for an evidentiary hearing.

#FS48869

**Bowen, Christine v. Bowen, Robert
Motion for Enforcement of Judgment**

There has been no response filed to the Notice of Motion for Enforcement of Judgment by the Petitioner. The request for enforcement appears in order so the motion will be granted and a judgment of \$3,664.06 will be entered in favor of Petitioner.

1:30 CALENDAR

#42548

**Helsel, Jack v. Forbes, James
Appearance and Examination of Judgment Debtor**

The court will order the Judgment Debtor to respond to the questions of the Judgment Creditor and will provide an interrogation room for that purpose.

#49858

**Olson, Kevin v. State Personnel Board
Petition for Writ of Mandamus**

The Administrative Law Judge set forth several factors with respect to how she believed the testimony of Williams as opposed to other evidence to the contrary submitted by Petitioner and others. Therefore the court will deny the Petition for Writ of Administrative Mandate and affirm the State Personnel Board decision.

#47167

**Nationwide v. Staub, Ed
Motion to Determine Good Faith Settlement by Cleanrite Inc.**

The Motion for Determination of Good Faith Settlement pursuant to Code of Civil Procedure sections 877 and 877.6 being unopposed and meeting criteria set out by Code of Civil Procedure section 877.6, will be granted.

#50085

**Korn, Allen v. Spencer, Eileen
Motion for Reconsideration on Denial of Notice of Motion to Set Aside Default Judgment of John Spencer**

The Motion for Reconsideration will be denied since the same procedural defect remains that caused the original motion to set aside the default judgment to be denied. Defendant John Spencer has failed to provide a valid reason for his failure to pay the required filing fees or obtain a proper fee waiver. Both Defendants were sued as individuals so the argument that it was joint action against the two of them is invalid. The payment of filing fees is mandatory and jurisdictional (*Ho v. Silgan*

***Containers Corporation* (1999) 70 Cal.App.4th 1261) Defendant has not set forth any change in facts, circumstances or law that would support the motion for reconsideration, which is required under Code of Civil Procedure section 1008 for a motion to reconsider be granted.**

#50523

**State of California v. Murdock, Nathaniel
Trial Setting**

The court will set this matter for trial in accordance with the respective calendars of the court and the parties.

#50766

**State of California v. Dupraz, Terry
Trial Setting**

At the time of review no proof of service had been filed showing the District Attorney had been served with the Opposition to Forfeiture. If at the time of the hearing the District Attorney has not been served with this document the court will continue the matter for trial setting to November 15, 2010 at 1:30 p.m. for trial setting and will order the Claimant to serve the District Attorney with a copy of his claim opposing forfeiture.

#P7491

**Conservatorship of Binkley, Juanita
Motion re Consolidation**

The Motion for Consolidation is unopposed and will be granted since consolidation appears appropriate pursuant to Code of Civil Procedure section 1048.

#P7366

**Conservatorship of Richardson, Ashlee
Biennial Review and 1st Accounting**

The Conservatee's mother Rebecca Anderson has not submitted a proper account. The surcharge issued against Rebecca Anderson of \$16,110.62 is changed to \$16,515.20 for unaccounted disbursements made while Rebecca Anderson was Conservator. The first account will be accepted and approved as submitted. The second account and report will also be accepted and approved as submitted and the Conservator will be

directed to pay itself the fee of \$412.50 and to pay the County Counsel \$69.90 for services rendered.

The proposed order settling the first account and granting the surcharge of \$16,515.20 will be signed as will the proposed order submitted settling the second account and granting petition for fees.

#P6626

**Conservatorship of Egyed, Jason
Biennial Review**

The court finds that the actions of the Co-Conservators are in the best interest of the Conservatee and are approved. The Conservatorship continues to be necessary and shall continue. The court waives the account and future accountings for this Conservatorship.

#P7799

**Conservatorship of Calwell, Glenn
First Annual Review Hearing and Accounting**

The court will accept and approve the Report of Investigator and will find the acts and transactions of Conservator have been in the best interest of Conservatee and will be approved. The Conservatorship continues to be necessary. The court will direct the clerk to send notice when the next biennial review will occur.

The court will accept and approve the report, direct Petitioner to pay Conservatorship commissions of \$731.50 and attorney fees to County Counsel of \$247.50. Further, the court will order the annual bond fee of \$25.00 to be paid.

#P7867

**Guardianship of Keefer, Natalie
Appointment of Guardian of Minor**

The Guardianship Investigator's Report has been received, read and approved. The report recommends the Petition for Appointment of Natalie Fuller as Guardian be granted and it appears to the court that this is in the best interest of the minor. The Consent of the proposed Guardian was filed October 20, 2010 as was the Nomination of Guardian by the natural mother Natasha Leatherman. Natasha Leatherman also waived notice of the hearing on the petition. The natural father is unknown. In accordance with the recommendation of the Guardianship Investigator the court will

grant the Guardianship and execute the order appointing Natalie Fuller as Guardian of the person of Natalie Keefer, her granddaughter.

4:00 CALENDAR

#FL49906

**Crane, Henry v. Crane, Susan
Report of Family Law Facilitator**

At the time of review the report of the Family Law Facilitator had not been received and the file was not available for review.

#FS49008

**Wheeler, Machel v. Wheeler, Samuel
Report of Mediator**

At the time of review the report of the Child Custody Recommending Counselor had not been received. If the report is received by the date of the hearing and the parties have not reached an agreement the matter will be set for an evidentiary hearing.